



FH  
[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

BCS/158547

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**PRELIMINARY RECITALS**

Pursuant to a petition filed June 23, 2014, under Wis. Stat. § 49.45(5)(a), to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance, a hearing was held on August 12, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether Milwaukee Enrollment Services (the agency) correctly terminated the Petitioner's BadgerCare+ benefits.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: Pang Thao-Xiong, Income Maintenance Specialist Advanced  
Milwaukee Enrollment Services  
1220 W. Vliet St., Room 106  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

Mayumi M. Ishii  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. On June 16, 2014, the agency sent the Petitioner a notice indicating that her BadgerCare+ benefits would be ending effective July 1, 2014, because she was over the income limit. (Exhibit 8)

3. The Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on June 23, 2014. (Exhibit 1)
4. Petitioner receives Social Security Surviving Spouse benefits, in the amount of \$358.00 per month. (Exhibit 6, pg. 1; Testimony of Petitioner)
5. The Petitioner also receives Social Security Disability Income in the amount of \$474.00 per month. (Exhibit 6, pg. 2; Testimony of Petitioner)
6. Petitioner also has earned income. Averaging the gross income received in all 13 paystubs provided in Exhibit 14, Petitioner receives \$219.52 per bi-weekly pay period or \$439.04 per month (\$219.52 x 2 average bi-weekly pay periods per month).
7. The agency based its calculation of Petitioner's earned income upon two paystubs provided by Petitioner that are dated February 21, 2014, and February 7, 2014. The agency determined Petitioner's earned income to be \$365.64 per month. (Exhibits 2 and 5)

### **DISCUSSION**

BadgerCare Plus (BC+) is a state/federal program that provides health coverage for Wisconsin families. *BadgerCare + Eligibility Handbook (BEH) §1.1.1.*

Effective April 1, 2014, an adult must have household income below 100% the Federal Poverty Level, in order to be eligible for the BadgerCare+ health plan and all available gross income must be counted. *BEH §16.1* Prior to this, the income limit was 200% of FPL. *Id.* 100% of FPL for an assistance group size of one is currently \$972.50. *BEH §50.1.*

For BadgerCare+ purposes, only actual gross monthly income is used. Estimated amounts using the 4.3 weekly pay period or 2.15 bi-weekly pay period multipliers are NOT used. *Process Help §16.4.1*; see also *Ops Memo 01-01*

Petitioner's income works out to be:

\$358.00 Surviving Spouse Social Security
+\$474.00 Social Security Disability Income
+\$365.64 Earned Income
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\$1197.64 Total gross monthly income

Petitioner's income of \$1197.64 per month is over the \$972.50 - 100% FPL income limit. As such, the agency correctly ended her BadgerCare+ benefits.

The Petitioner argues that the agency's calculation of her income was not correct. However, the agency acted on the best information that it had available, which was the two paystubs she provided for February 2014. I note that if the agency averaged Petitioner's income over six months, as she suggests, that calculation yields a higher monthly income than what the agency initially determined and so Petitioner would still be over the income limit.

Petitioner should note that if her income has changed, she can reapply for healthcare benefits.

### **CONCLUSIONS OF LAW**

The agency correctly ended the Petitioner's BadgerCare+ benefits, effective July 1, 2014.

**THEREFORE, it is**

**ORDERED**

That the petition is dismissed.

## REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

## APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 18th day of September, 2014.

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\sMayumi M. Ishii  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on September 18, 2014.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability